

Proposed Trailer Bill Language

Apply the Consumer Necessities Index Increase to Dual Agency Foster Care Rates (Issue #647)

Section 11464 of the Welfare and Institutions Code is amended to read:

11464. (a) The Legislature finds and declares all of the following:

(1) Children who are consumers of regional center services and also receiving Aid to Families with Dependent Children-Foster Care (AFDC-FC), Kinship Guardianship Assistance Payment (Kin-GAP) benefits, or Adoption Assistance Program (AAP) benefits have special needs that can require care and supervision beyond that typically provided to children in foster care. Clarifying the roles of the child welfare and developmental disabilities services systems will ensure that these children receive the services and support they need in a timely manner and encourage the successful adoption of these children, where appropriate.

(2) To address the extraordinary care and supervision needs of children who are consumers of regional center services and also receiving AFDC-FC, Kin-GAP, or AAP benefits, it is necessary to provide a rate for care and supervision of these children that is higher than the average rate they would otherwise receive through the foster care system and higher than the rate other children with medical and other significant special needs receive.

(3) Despite the enhanced rate provided in this section, some children who are consumers of regional center services and also receiving AFDC-FC, Kin-GAP, or AAP benefits may have care and supervision needs that are so extraordinary that they cannot be addressed within that rate. In these limited circumstances, a process should be established whereby a supplement may be provided in addition to the enhanced rate.

(4) Children who receive rates pursuant to this section shall be afforded the same due process rights as all children who apply for AFDC-FC, Kin-GAP, and AAP benefits pursuant to Section 10950.

(b) Rates for children who are both regional center consumers and recipients of AFDC-FC or Kin-GAP benefits under this chapter shall be determined as provided in Section 4684 and this section.

(c) (1) The rate to be paid for 24-hour out-of-home care and supervision provided to children who are both consumers of regional center services pursuant to subdivision (d) of Section 4512 and recipients of AFDC-FC and Kin-GAP benefits under this chapter shall be two thousand six dollars (\$2,006) per child per month.

(2) (A) The county, at its sole discretion, may authorize a supplement of up to one thousand dollars (\$1,000) to the rate for children three years of age and older, if it determines the child has the need for extraordinary care and supervision that cannot be met within the rate established pursuant to paragraph (1). The State Department of Social Services and the State Department of Developmental Services, in consultation with stakeholders representing county child welfare agencies, regional centers, and children who are both consumers of regional center services and recipients of AFDC-FC, Kin-GAP, or AAP benefits, shall develop objective criteria to be used by counties in determining eligibility for and the level of the supplements provided pursuant to this paragraph. The State Department of Social Services shall issue an all-county letter to implement these criteria within 120 days of the effective date of this act. The criteria shall take into account the extent to which the child has any of the following:

(i) Severe impairment in physical coordination and mobility.

- (ii) Severe deficits in self-help skills.
- (iii) Severely disruptive or self-injurious behavior.
- (iv) A severe medical condition.

(B) The caregiver may request the supplement described in subparagraph (A) directly or upon referral by a regional center. Referral by a regional center shall not create the presumption of eligibility for the supplement.

(C) When assessing a request for the supplement, the county shall seek information from the consumer's regional center to assist in the assessment. The county shall issue a determination of eligibility for the supplement within 90 days of receipt of the request. The county shall report to the State Department of Social Services the number and level of rate supplements issued pursuant to this paragraph.

(d) (1) The rate to be paid for 24-hour out-of-home care and supervision provided for children who are receiving services under the California Early Start Intervention Services Act, are not yet determined by their regional center to have a developmental disability, as defined in subdivisions (a) and (1) of Section 4512, and are receiving AFDC-FC or Kin-GAP benefits under this chapter, shall be eight hundred ninety-eight dollars (\$898) per child per month. If a regional center subsequently determines that the child is an individual with a developmental disability as that term is defined by subdivisions (a) and (1) of Section 4512, the rate to be paid from the date of that determination shall be consistent with subdivision (c).

(2) The rates to be paid for 24-hour out-of-home nonmedical care and supervision for children who are recipients of AFDC-FC or Kin-GAP and consumers of regional center services from a community care facility licensed pursuant to Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code and vendored by a regional center pursuant to Section 56004 of Title 17 of the California Code of Regulations, shall be the facility rate established by the State Department of Developmental Services.

(e) Rates paid pursuant to this section are subject to all of the following requirements:

(1) The rates paid to the foster care provider under subdivision (c) and paragraph (1) of subdivision (d) are only for the care and supervision of the child, as defined in subdivision (b) of Section 11460 and shall not be applicable to facilities described in paragraph (2) of subdivision (d).

(2) Regional centers shall separately purchase or secure the services that are contained in the child's Individualized Family Service Plan (IFSP) or Individual Program Plan (IPP), pursuant to Section 4684.

(3) ~~In the event that the schedule of basic foster care rates, as specified in Section 11461, is increased on or after July 1, 2008, the rates in subdivisions (c), (d), and (f) shall be similarly adjusted. Beginning with the 2011-12 fiscal year, the rates in subdivisions (c) (1) and (d) (1) shall be adjusted annually by the percentage change in the California Necessities Index, as set forth in paragraph (2) of subdivision (g) of Section 11461. No~~ county shall be reimbursed for any increase in this rate that exceeds the adjustments made in accordance with this methodology.

(f) (1) The AFDC-FC rates paid on behalf of a regional center consumer who is a recipient of AFDC-FC prior to July 1, 2007, shall remain in effect unless a change in the placement warrants redetermination of the rate or if the child is no longer AFDC-FC eligible. However, AFDC-FC rates paid on behalf of these children that are lower than the rates specified in paragraph (1) of subdivision (c) or paragraph (1) of subdivision (d), respectively, shall be increased as appropriate to the amount set forth in paragraph (1) of subdivision (c) or paragraph (1) of subdivision (d), effective July 1, 2007, and shall remain in effect unless a change in the placement or a change in AFDC-FC eligibility of the child warrants redetermination of the rate.

(2) For a child who is receiving AFDC-FC benefits or for whom a foster care eligibility determination is pending, and for whom an eligibility determination for regional center services pursuant to subdivision (a) of Section 4512 is pending or approved, and for whom, prior to July 1, 2007, a State Department of Developmental Services facility rate determination request has been made and is pending, the rate shall be the State Department of Developmental Services facility rate determined by the regional center through an individualized assessment, or the rate established in paragraph (1) of subdivision (c), whichever is greater. The rate shall remain in effect until the child is no longer eligible to receive AFDC-FC, or, if still AFDC-FC eligible, is found ineligible for regional center services as an individual described in subdivision (a) of Section 4512. Other than the circumstances described in this section, regional centers shall not establish facility rates for AFDC-FC purposes.

(g) (1) The department shall adopt emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and for the purposes of that chapter, including Section 11349.6 of the Government Code, on or before July 1, 2009.

(2) The adoption of regulations pursuant to paragraph (1) shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, safety, and general welfare. The regulations authorized by this subdivision shall remain in effect for no more than 180 days, by which time final regulations shall be adopted.

(h) (1) The State Department of Social Services and the State Department of Developmental Services shall provide to the Joint legislative Budget Committee, on a semiannual basis, the data set forth in paragraph (2) to facilitate legislative review of the outcomes of the changes made by the addition of this section and the amendments made to Sections 4684 and 16121 by the act adding this section. The first report shall be submitted on October 1, 2007, with subsequent reports submitted on March 1 and October 1 of each year.

(2) The following data shall be provided pursuant to this subdivision:

(A) The number of, and services provided to, children who are consumers of regional center services and who are receiving AAP, Kin-GAP, or AFDC-FC, broken out by children receiving the amount pursuant to paragraph (1) of subdivision (c), the amount pursuant to paragraph (1) of subdivision (d), and the level of supplement pursuant to subparagraph (A) of paragraph (2) of subdivision (c).

(B) A comparison of services provided to these children and similar children who are regional center consumers who do not receive AFDC-FC, Kin-GAP, or AAP benefits, broken out by children receiving the amount pursuant to paragraph (1) of subdivision (c), the amount pursuant to paragraph (1) of subdivision (d), and the level of supplement pursuant to subparagraph (A) of paragraph (2) of subdivision (c).

(C) The number and nature of appeals filed regarding services provided or secured by regional centers for these children, consistent with Section 4714, broken out by children receiving the amount pursuant to paragraph (1) of subdivision (c), the amount pursuant to paragraph (1) of subdivision (d), and the level of supplement pursuant to subparagraph (A) of paragraph (2) of subdivision (c).

(D) The number of these children who are adopted before and after the act adding this section, broken out by children receiving the amount pursuant to paragraph (1) of subdivision (c), the amount pursuant to paragraph (1) of subdivision (d), and the level of supplement pursuant to subparagraph (A) of paragraph (2) of subdivision (c).

(E) The number and levels of supplements requested pursuant to

subparagraph (B) of paragraph (2) of subdivision (c).

(F) The number of appeals requested of the decision by counties to deny the request for the supplement pursuant to subparagraph (A) of paragraph (2) of subdivision (c).

(G) The total number and levels of supplements authorized pursuant to subparagraph (A) of paragraph (2) of subdivision (c) and the number of these supplements authorized upon appeal.

(i) Commencing January 1, 2012, the rate described in subdivision (c) shall be paid for an eligible nonminor dependent who is under 21 years of age, is receiving AFDC-FC or Kin-GAP benefits pursuant to Section 11403, and is a consumer of regional center services.